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**REMARKS**

Applicant respectfully requests reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks. No additional fee is required for this Amendment as the number of independent claims has not changed, and the total number of claims has not changed.

**Amendment to the Claims**

Applicant amended Claim 9 as suggested by the Examiner.

**Claim Rejections - 35 U.S.C. §102**

Claims 2-7, 9-14, and 18 have been rejected under 35 U.S.C. §102(b) as being anticipated by WO 97/39710.

In order to anticipate Applicant's claimed invention, WO '710 must teach each and every claim limitation. Applicant asserts WO '710 at least does not disclose or suggest the following limitations (generally stated) of independent Claims 3, 9, and 18.

- A separate flap or pocket sheet attached directly to the body-side liner at opposed peripheral edges of the flap or pocket sheet.
- A pocket defined by or between pleats of the flap or pocket sheet and the pocket.
- A pocket between the flap or pocket sheet and the body-side liner.

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Applicant's independent Claims 3, 9, and 18 each recite a separate flap sheet (Claims 3 and 9) or pocket sheet (Claim 18) attached directly to a fluid permeable body-side liner of the absorbent article or disposable diaper, respectively. The body-side liner, as the name dictates by its plain and ordinary meaning, as is described in Applicant's Specification and figures, and as is generally known to one skilled in the art (See, for example, WO 97/39710), is an outer lining that is between the absorbent core and the article user which contacts the skin of the article user. Applicant's claimed invention is a separate pleated sheet structure that is attached to the body-side liner to provide a pocket for collection of fecal matter.

The Examiner responded to Applicant's prior arguments by stating Applicant's remarks were: 1) "narrower than the claim language which does not set forth the size of the separate sheet, which sheet is also bodyside, with respect to the bodyside layer"; and 2) "narrower than the teaching of WO '710 which discloses the sheet 54 may have apertures ... through which the envelope web would be exposed, i.e., the web is also bodyside."

Applicant respectfully asserts Applicant's prior remarks were not narrower than the claim language. Applicant's arguments were not based upon a particular size of the separate sheet, but that the separate sheet is attached to a "body-side liner." Reading the independent claims as a whole, the separate flap or pocket

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sheet is not itself the body-side liner. Applicant's flap or pocket sheet therefore does not have a size sufficient to be the body-side liner, i.e., the separate sheet does not line all or substantially all the interior surface of the absorbent article chassis.

The Examiner's arguments and rejections rely on a definition of "body-side liner" that is broader than that understood by one skilled in the art of absorbent articles. One skilled in the art would understand that a body-side liner would be the layer lining the interior surface of the absorbent article chassis. Applicant claims a separate sheet directly attached to the body-side liner. Therefore, the separate sheet cannot be considered the body-side liner, and must have a size less than the body-side liner, or the interior surface of the chassis. Further supporting Applicant's position, the claims recite the flap sheet or pocket is proximate the back region of the diaper and/or that the pocket is formed between the flap or pocket sheet and the body-side liner.

Furthermore, the Examiner is incorrect in asserting that an aperture(s) in a body-side liner would result in the underneath layer also being considered a body-side liner. The Examiner's classification of this underneath layer would not be contemplated by one skilled in the art. For example, if the aperture(s) exposed the absorbent core of the absorbent article, one skilled in the art would not identify the absorbent core as a body-side liner. Similarly, an additional material layer wrapped

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around the core (and beneath the body-side liner), would be, for example, a containment sheet or an envelope web, but not a body-side liner, even if made from the same or similar materials used for body-side liners.

Applicant respectfully asserts that in rejecting Claims 2-7, 9-14, and 18 as being anticipated by WO '710, the Examiner incorrectly and improperly redefines and/or reclassifies the structure and elements of WO '710. As shown in FIGS. 10-15 of WO '710, the bodyside layer 54 (the top layer of the liquid control assembly 102) includes Z-folded portions between the center panel 104 and the lateral panels 120 (Page 24, line 32 - page 25, line 26). WO '710 discloses the bodyside layer 54 itself is pleated, and does not disclose a separate pleated sheet attached to the bodyside layer 54. As WO '710 does not disclose a separate pleated sheet attached to the bodyside layer, WO '710 does not disclose each and every limitation of Applicant's invention of Claims 3, 9, and 18.

At page 2, paragraph 4, of the Office Action, the Examiner claims the topsheet of the absorbent article disclosed in WO '710 is "the envelope web as disclosed at page 35, first full paragraph," and not the appropriately named "bodyside layer 54". For reasons discussed above, Applicant respectfully asserts that the Examiner's identification of this envelope web as a topsheet is incorrect. One skilled in the art reading WO '710 would understand the disclosed envelope web to be, as

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described at page 35, an optional containment overwrapping for the absorbent assembly 52. The overwrapping envelope web can be formed from a separate "bodyside wrap layer" and a separate "outerside wrap layer," but the bodyside wrap layer is not disclosed as the bodyside layer 54 (Page 35, first paragraph). The use of the terms "bodyside" and "outerside" in reference to the wrap layers identify to one skilled in the art the orientation of the wrap layers within the absorbent article structure. WO '710 discloses the absorbent body, e.g., absorbent assembly 52, whether wrapped in the envelope web or not, is positioned beneath the bodyside layer 54, i.e., between the bodyside layer 54 and the backsheet layer 50 (Page 24, third paragraph). The envelope web is not, and would not be considered by one skilled in the art, a body-side liner as recited in independent Claims 3, 9, and 18. Even if the bodyside layer 54 is apertured, and the envelope web was exposed to some degree, one skilled in the art would not classify the envelope web as a liner, and more particularly a body-side liner.

Furthermore, Applicant's claimed invention requires the flap or pocket sheet be attached at peripheral edges to a fluid permeable body-side liner. The pleated layer 54 of WO '710 is attached to fluid impermeable lateral panels 120. For this additional reason, WO '710 does not teach each and every limitation of Applicant's claimed invention.

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Applicant's claimed invention also recites that a pocket is defined between the flap or pocket sheet and the body-side liner. Referring to FIGS. 12 and 13, the pocket of WO '710 is formed between the liquid control assembly 102 and the absorbent core 52. As discussed above, wrapping the absorbent core 52 in an envelope web does not provide the claimed invention as one skilled in the art would not consider the envelope web a body-side liner layer despite possible exposure through one or more apertures in the actual body-side liner material.

For at least the above reasons, WO '710 does not anticipate Applicant's claimed invention. Favorable reconsideration and withdrawal of this rejection is requested.

### **Claim Rejections - 35 U.S.C. §103**

Claims 2-7, 9-14, and 18 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schaar, U.S. Patent 3,951,150, in view of WO 97/48359, Igaue et al., U.S. Patent 5,114,420, and Foreman, U.S. Patent 4,738,677.

Applicant agrees with the Examiner that the Schaar Patent discloses an integral flap 48 (i.e., not a separate sheet as in Applicant's claimed invention) that is an extension of the box-pleat diaper 26, and folded about lateral fold line 50 (Col. 4, lines 8-22). However, Applicant disagrees that the "interchangeability" of integral

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and separate nonpleated waist flaps disclosed in WO '359 can be or would have been considered applicable to the Schaar Patent by one skilled in the art.

The Schaar Patent discloses the flap 48 is folded over to cover and promote adhesion of the elastic loop 55 (Col. 4, line 50-66). Prior to product use, the flap 48, being integral to the box-pleat diaper 26, includes each of the multiple pleats, thereby matching the front surface 34 and allowing for the lateral extension shown in Fig. 6. The Schaar Patent does not disclose or suggest a separate sheet for flap 48, particularly as any separate flap sheet would require the extensive matching pleating of the box-pleat diaper 26 and extensive and costly additional manufacturing steps. Also, attaching a separate pleated sheet along the back waist line of the diaper of the Schaar Patent would interfere with the lateral expandability (shown in FIGS. 6-8) of the diaper. One skilled in the art would find no suggestion or motivation to apply a separate sheet as the flap 48 of the Schaar Patent for at least these reasons.

Furthermore, during use of the diaper of the Schaar Patent, the use position being shown in the unfolded state in FIG. 8, the flap sheet is no longer folded or pleated. Therefore, the Schaar Patent does not disclose a pleated sheet whereby the pleats define a pocket for collection of fecal matter, as in Applicant's claimed invention.

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The waistflap 60 of WO '359 is not disclosed as being pleated. Thus WO '359 discloses the interchangeability (i.e., substitution) of integral and separate nonpleated waistflaps 60. Applicant already established in the record that neither the Foreman Patent nor the Igaue et al. Patent disclose Applicant's claimed pleated flap sheet. Therefore, the Foreman Patent or the Igaue et al. Patent also would not disclose or suggest the interchangeability of a separate pleated flap sheet for an integral pleated flap sheet.

Neither the Schaar Patent, WO '359, the Foreman Patent, nor the Igaue et al. Patent discloses or suggests Applicant's pleated flap or pocket sheet, whereby the pleats define a pocket for the collection of fecal matter. Also, these references do not disclose or suggest the interchangeability of a separate pleated sheet for an integral pleated sheet. Therefore, these references, either alone or in combination, do not provide or suggest Applicant's claimed invention.

Applicant asserts that the Examiner is using improper hindsight in stating that the interchangeability of nonpleated waist flap sheets disclosed in WO '359 can or would have been applied to the flap 48 of the Schaar Patent by one skilled in the art. The only suggestion for applying the disclosure of interchangeability of separate and integral nonpleated flap sheet in WO '359 to the integral, and folded over pleated (prior to diaper use) flap 48 of the Schaar Patent is found in Applicant's

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disclosure. One skilled in the art would not have recognized that the folded over, integral flap 48 of the Schaar Patent would have been interchangeable with a separate pleated sheet, particularly due to the excessive and more complicated manufacturing steps and interference with the intended lateral expansion, as discussed above.

For at least the above reasons, Applicant's separate pleated flap or pocket sheet of independent Claims 3, 9, and 18, respectively, would not have been obvious to one skilled in the art over the combination of the Schaar Patent and any or all of the secondary references. Claims 2, 4-7, and 10-14 depend from one of Claims 3 and 9, and are thus patentable for at least the same reasons as Claims 3 and 9, respectively. Favorable reconsideration and withdrawal of this rejection is requested.

Claims 15-17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over WO 97/39710 in view of Igaue et al., U.S. Patent 5,114,420.

Applicant's above remarks regarding WO '710 are also applicable to this rejection. Briefly restated, WO '710 does not disclose or suggest a pleated flap sheet directly attached to the body-side liner, as in Applicant's invention of independent Claim 15. As discussed in prior remarks of record, the Igaue et al. Patent teaches gathered material, but only in the leg regions of a diaper, and does not disclose or suggest forming longitudinal pleats that define peripheral sides of a pocket between

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the flap sheet and a body-side liner, as in Applicant's Claim 15. Therefore, the combination of WO '710 and the Igaue et al. Patent does not provide Applicant's claimed invention, and does not render Applicant's claimed invention unpatentable. Favorable reconsideration and withdrawal of this rejection is requested.

### Conclusion

Applicant intends to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicant has not addressed in this response, Applicant's undersigned attorney requests a telephone interview with the Examiner.

Applicant sincerely believes that this Patent Application is now in condition for allowance and, thus, respectfully requests early allowance.

Respectfully submitted,



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